

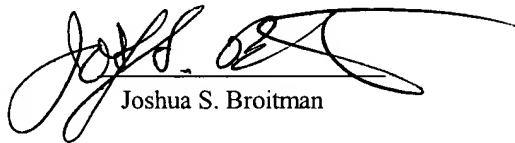


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July 9, 2004
Date



Joshua S. Broitman

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Gunter A. Gallas et al. **Group Art Unit:** 6713
Serial No. : 09/876,156 **Examiner:** BENENSON, Boris
Filed : June 8, 2001
Title : **GROUND FAULT CIRCUIT INTERRUPTER
WITH FUNCTIONALITY FOR RESET**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandra, VA 22313-1450

RESPONSE TO OFFICE ACTION MAILED MARCH 9, 2004

Sir:

In response to the Office Action mailed March 9, 2004, please consider the following remarks. A listing of all claims is annexed hereto.

Claims 1-3, 5-11, 14, 16-24 and 26-40 are pending in this application. Claims 8-11, 14, 16, 16-24 and 26-40 are allowed. Dependent claims 2 and 5 were found to be allowable. Claims 1, 3, 6 and 7 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,371,646 to Biegelmeier in view of U.S. Patent No. 6,040,967 to DiSalvo. Applicants respectfully request reconsideration and withdrawal of the rejection.

The Examiner acknowledged that the Biegelmeier patent does not disclose an electric circuit interrupter, as recited in claim 1, having a bistable latching “relay configured such that a state of the relay can be changed when the electric circuit interrupter is operational and the state of the relay cannot be changed when the electric circuit interrupter is not operational”, but asserted that it would have been obvious to modify the circuit interrupter disclosed in the Biegelmeier patent to include the reset lock-out mechanism disclosed in the DiSalvo patent to “prevent from connecting a power source to a load without the ground fault protection available until malfunction of the interrupter is corrected.”

Applicants respectfully submit that there is no suggestion in either cited patent to make the proposed combination, and further that the Examiner’s proposed combination does not yield the claimed invention. It is well-settled that the mere fact that the prior art could be modified to form the invention would not make that modification obvious unless the prior art suggested the desirability of the modification. In re Laskowski, 10 U.S.P.Q. 2d 1397, 1398 (Fed. Cir. 1989); In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed Cir. 1984).

Here, the Examiner correctly noted that the Biegelmeier patent does not disclose the claimed configuration of Applicant’s bistable latching relay. The Biegelmeier patent also does not disclose the desirability of modifying its bistable relay to prevent it from changing states when the interrupter circuitry is not operational, as recited in claim 1. On the contrary, the Biegelmeier patent teaches just the opposite, requiring that a bistable transformer relay “must be reset to its original position after the impulse and the switching action induced thereby” so that the circuit interrupter can be switched on again manually (without any procedure to test the tripping functionality of the circuit interrupter before the relay changes states). Col. 3, lines 41-

43; Col. 7, lines 48-52. More particularly, resetting of the bistable relay (or changing the state back to its original state) is accomplished during the procedure for tripping the circuit, and occurs regardless of whether the transformer and energy storage circuit, which cause tripping, are operational. Therefore, the bistable relay disclosed in the Biegelmeier patent will necessarily change states to a reset state even when the circuit interrupter is not operational. *See* Col. 7, lines 34-65.

The DiSalvo patent does not cure the deficiencies in the teachings of the Biegelmeier patent because it does not disclose, teach or suggest using a bistable latching relay in a circuit interrupting device, or the advantages attendant thereto. Instead, the DiSalvo patent discloses a trip mechanism including the combination of a coil assembly, a plunger and a banger. Col. 5, lines 30-33. In operation, similar to the Biegelmeier patent, the plunger in the DiSalvo patent is always reset to its original position after tripping. This is required to maintain the device in a “lock-out” position. Col. 6, lines 6-11. Therefore, the state of the trip mechanism is always changed (back to its original position) even if the interrupter circuit is not operational. There is no teaching or suggestion in the DiSalvo patent of the desirability of modifying this trip mechanism to include a bistable latching relay, or of how such a modification would be accomplished.

Most fundamentally, however, the Examiner’s proposed combination does not yield the invention recited in independent claim 1. In particular, the proposed combination does not yield an interrupter device including a bistable latching relay configured such that the state of the relay cannot be changed if the interrupter device is not operational. Instead, both cited patents teach that the interrupter mechanism should change states back to their original states after tripping even if the

interrupter device is not operational. Therefore, Applicants submit that independent claim 1, and all claims depending therefrom, are not obvious in view of the cited patents, and the rejection under 35 U.S.C. §103 must be withdrawn.

Accordingly, Applicants believe that all claims pending in this application are allowable and request that this case be passed to issue. However, if any issue remains to be resolved, Applicants request that the Examiner telephone the undersigned.

Dated: July 9, 2004

Respectfully submitted,

OSTRAGER CHONG FLAHERTY
& BROITMAN P.C.

By: 

Joshua S. Broitman
Reg. No. 38,006

250 Park Avenue, Suite 825
New York, New York 10177-0899
(212) 681-0600
Attorneys for Applicants